BLUEGREEN ALLIANCE

CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

August 1, 2022

U.S. Bureau of Ocean Energy Management
Office of Strategic Resources
760 Paseo Camarillo (Suite 102)
Camarillo, California 93010

Re: BOEM-2022-0017: Pacific Wind Lease Sale 1 (PACW-1) for Commercial Leasing for Wind Power Development on the Outer Continental Shelf (OCS) in California - Proposed Sale Notice

On behalf of the BlueGreen Alliance, our partners, and the millions of members and supporters they represent, we thank the U.S. Bureau of Ocean Energy Management (BOEM) for the opportunity to submit these comments regarding the Proposed Sales Notice for Commercial Leasing for Wind Power Development on the Outer Continental Shelf (OCS) in the Humboldt Wind Energy Area (WEA) and Morro Bay WEA offshore California.

The BlueGreen Alliance unites labor unions and environmental organizations to solve today's environmental challenges in a way that creates and maintains quality jobs and builds a clean, thriving, and equitable economy. Offshore wind energy presents a once-in-a-generation opportunity to contribute to this mission if developed responsibly with high road labor standards, a domestic supply chain, equitable community benefits, and environmental protection that avoids, minimizes, and mitigates impacts to wildlife, ecosystems, and natural resources at each phase of development. We appreciate the attention to all of these aspects in the Proposed Sale Notice and offer the following comments that we believe will strengthen the intended outcomes of the proposed lease stipulations, bidding credits, and community benefit agreements.

1). Background

California Offshore Wind Energy

Last year, California passed Assembly Bill 525 (AB 525) to evaluate the maximum feasible capacity of offshore wind that can be deployed to meet the 100 Percent Clean Energy Act of 2018. The law recognizes, among other things, the economic and workforce development benefits that offshore wind could provide California, including the development and preservation of a skilled and trained construction workforce to carry out projects, long-term job creation, and development of an offshore wind energy supply chain.[1] It also recognizes the contributions that offshore wind energy can make to affordable renewable electricity that improves air quality, particularly in disadvantaged communities, while addressing climate change.[2] The law also commits to providing career pathways, workforce training, and apprenticeship opportunities for a diverse labor pool, prioritizing local hiring and opportunities for communities experiencing high unemployment.[3]

To secure a pathway for achieving these benefits, AB 525 requires that the California Energy Commission submit an offshore wind strategic plan no later than June 30, 2023. The strategic plan must include,

among other things, economic and workforce development and identification of port space and infrastructure, transmission planning, and potential impacts to Native American and Indigenous peoples, coastal resources, fisheries, and national defense.[4] The strategic plan must also consider the potential to attract supply chain manufacturing for offshore wind components throughout the Pacific region and emphasize and prioritize near-term actions related to jobs, workforce training, and economic development.[5] This includes consultation with representatives of key labor organizations and apprenticeship programs that would be involved in dispatching and training the construction workforce.[6]

On May 6, 2022, the California Energy Commission released a Draft Commission Report, "Offshore Wind Energy Development off the California Coast."[7] The report states, "the largest economic benefits for California from an offshore wind industry would be realized with the development of a local supply chain where offshore wind components such as floating platforms, towers, mooring lines, and anchors could be manufactured in-state."[8] It further states, "having a local supply chain and workforce capabilities makes California, the West Coast, and the United States less vulnerable to global supply chain bottlenecks and better positioned to achieve offshore wind deployments at scale."[9]

To avoid the most catastrophic impacts of climate change and maintain national security, floating offshore wind projects off California's shores must be deployed responsibly and strategically. This means making every effort to avoid project delays with meaningful investment in local supply chains and workforce development as well as comprehensive environmental analysis that ensures avoidance, minimization, and mitigation of adverse impacts. The Final Sale Notice that establishes the terms of the commercial lease contract holds a significant role in setting projects on this trajectory.

Federal Commitments

The Biden administration has reinforced that it is the policy of the federal government to pursue solutions to the climate crisis with attention to union labor, environmental justice, natural resources, and national security in various executive orders and in the announcement of the National Offshore Wind Target (NOWT) of 30 gigawatts of offshore wind deployed by 2030. In the White House Fact Sheet containing that announcement, it was declared (emphasis added):

> "The President recognizes that a thriving offshore wind industry will drive ***new jobs and economic opportunity*** up and down the Atlantic Coast, in the Gulf of Mexico, and in Pacific waters. The industry will also spawn ***new supply chains*** that stretch into America's heartland, as illustrated by the 10,000 tons of domestic steel that workers in Alabama and West Virginia are supplying to a Texas shipyard where Dominion Energy is building the Nation's first Jones Act compliant turbine installation vessel.
>
> "Federal leadership, in close coordination with states and in partnership with the private sector, ***unions and other key stakeholders*** is needed to catalyze the deployment of offshore wind at scale.
>
> "…the Administration is taking coordinated steps to support rapid offshore wind deployment and ***job creation***:
>
> 1. Advance ambitious wind energy projects to ***create good-paying, union jobs***
> 2. ***Investing in American infrastructure to strengthen the domestic supply chain*** and deploy offshore wind energy
> 3. Supporting critical ***research and data-sharing.***"[10]

Further, the January 27, 2021 Executive Order 14008 "Tackling the Climate Crisis at Home and Abroad" includes the goal of doubling offshore wind by 2030 while creating well-paying union jobs and economic

growth; delivering environmental justice; an equitable, clean energy future; and ensuring robust protection for our lands, waters, and biodiversity.

The U.S. Department of Energy (DOE) has also established strategies to deploy offshore wind at the speed and scale needed to meet these goals. In a report released earlier this year, "Offshore Wind Energy Strategies," five strategic priorities are outlined (emphasis added):

1. Increase demand for offshore wind energy and grow the **domestic supply chain at a lower cost** by considering expansion of federal incentives related to offshore wind energy.
2. Reduce offshore wind energy costs through technology innovation and adaptations that enable industry growth and provide affordable energy throughout the country.
3. Improve siting and regulatory process by increasing transparency and predictability, auctioning new lease areas, understanding development impacts, expanding stakeholder engagement, and facilitating ocean co-use.
4. **Invest in supply chain development,** including customized offshore wind ports and vessels to establish a logistics network and attract further investment.
5. Plan efficient and reliable grid integration to deliver offshore wind energy at scale.[11]

BOEM plays a critical role in supporting the strategies outlined here. The Outer Continental Shelf Lands Act ("OCSLA") sets requirements that the U.S. Secretary of Interior (delegated to BOEM) shall ensure are met in granting of leases, easements, or rights-of-way for energy and related purposes on the outer continental shelf, including (1) safety; (2) protection of the environment; (3) coordination with relevant federal agencies; (4) protection of our national security interests; and (5) fair return to the United States.[12]

Leasing activities conducted by BOEM must also align with the National Environmental Policy Act (NEPA), in which Congress declared it a national policy "to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."[13]

The White House recently released strategies for "Advancing Equity and Racial Justice Through the Federal Government" as mandated in Executive Order 13985, including action plans for each federal department to fulfill the whole-of-government equity agenda.[14] The strategies included in the U.S. Department of Interior (DOI) action plan should be integrated in BOEM offshore wind activities and include employment opportunities for historically disadvantaged and low-wealth communities.[15] Another White House report, "Working Organizing and Empowerment" states that union approval is at its highest since 1965, with 68% of Americans approving of labor unions.[16] Support rates increase to 74% for workers aged 18 to 24, 75% for Hispanic workers, 80% for Black workers, and 82% for Black women workers.[17] When considering BOEM's role in advancing equity and racial justice, BOEM has the authority under OCSLA to take action that will result in a fair return to the United States, such as the utilization of leasing formats that incentivize lessee contributions to a domestic supply chain and that encourage the utilization of union labor. Together, these practices maximize job creation and ensure that the jobs created are quality, family-sustaining jobs.

2). Overview of Recommendations

In achieving the Biden administration's pivotal commitments as well as the multifaceted goals laid out in the Code of Federal Regulations, we believe that the greatest success will result in BOEM using its authority as described above to impose lease stipulations that require the use of domestic content and high-road labor standards in jobs associated with the manufacturing, construction, and operations and maintenance of offshore wind developments over projects lifetime.

Overall, we recommend that in undertaking this lease sale BOEM should ensure the maximum beneficial impacts are fulfilled by creating a high-road, responsibly developed offshore wind industry that:

- Maximizes the creation of quality, family-sustaining, union jobs over the projects lifetimes;
- Expands domestic manufacturing along robust domestic, regional, and local supply chains;
- Delivers community benefits with attention to improving access to targeted communities as defined by California law;[18]
- Protects fisheries, wildlife, and marine ecosystems by avoiding, minimizing, mitigating, and monitoring environmental impacts; utilizing data sharing and adaptive management strategies; and providing community benefits to impacted ocean users such as commercial fishers; and
- Is guided by robust and inclusive stakeholder engagement, including labor organizations, Tribal nations, historically underrepresented or disadvantaged communities, low-wealth communities, communities of color, and impacted ocean users such as commercial fishing.

3). Environmental Protection

To comply with state and federal policies and achieve all necessary permits, all offshore wind energy must be developed in an environmentally responsible manner that avoids, minimizes, and mitigates impacts to ocean wildlife and habitat and traditional ocean uses: meaningfully engages stakeholders from the start: and uses the best available science and data to ensure science-based and stakeholder-informed decision making. This includes analysis of cumulative impacts and adaptive management strategies—obtaining all necessary and relevant data—and requires BOEM to identify all methodologies—indicating when information is incomplete or unavailable—acknowledge scientific disagreement and data gaps, and evaluate intermediate adverse impacts based on approaches or methods generally accepted in the scientific community. Avoiding sensitive habitat areas, requiring strong measures to protect wildlife throughout each state of the development process, and comprehensive monitoring of wildlife and habitat before, during, and after construction, are all essential for the responsible development of offshore wind energy.

4). Lease Stipulations

In the Pacific Northwest (PSN), BOEM states:

> "BOEM is committed to a clean energy future, workforce development and safety, and the establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry. To advance this vision, BOEM is proposing two lease stipulations, one that would encourage construction efficiency for projects and the other that would contribute towards establishing a domestic supply chain:
>
> > 1. The first stipulation would require Lessees to make every reasonable effort to enter into a PLA covering the construction stage of any project proposed for the Lease Areas. The PLA provisions for the construction of an offshore wind project would apply to all contractors.
> >
> > 2. The second stipulation would require Lessees to establish a Statement of Goals in which the Lessee would describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The Lessee would be required to provide regular progress updates on the achievement of those goals to BOEM, and BOEM would make those updates publicly available."[19]

In the Project Labor Agreement (PLA) stipulation, we recommend that PLAs are required in the terms of the lease contract. The stipulation should also clarify that the PLA will cover onshore and offshore construction of any project proposed for the lease areas and that it includes targeted hire of underrepresented workers, workers who live in disadvantaged communities, local hire, and a trained workforce via certified apprenticeship program. In its comments to BOEM regarding the PSN for the New York Bight, North America's Building Trades Unions (NABTU) reported that their PLA with Ørsted North America, Inc. encompassing all Ørsted's offshore wind development committed to include provisions regarding the referral of women, minorities, and veterans. They also note in the Vineyard PLA, parties committed to making "best efforts" to train and employ local residents, members of local Native American tribes, people of color, and women, and to facilitate utilization of minority-and-women-owned businesses on the project.[20]

In the supply chain stipulation, we recommend the following additions:

Domestic content preference: BOEM should add to the existing stipulation, or create an additional stipulation, establishing a domestic content preference. This preference should include a minimum amount of domestic content to be used in the project, established through detailed analysis of component availability.[21] Ideally, the minimum amount would increase overtime as supply chains develop.

Supplier Engagement Plan: Supplier engagement is key to contributing to a U.S. offshore wind supply chain. BOEM should add to the existing stipulation, or create an additional stipulation, requiring developers to submit a Supplier Engagement Plan with the Bidder Financial Form in advance of the auction. The Supplier Engagement Plan should be made publicly available and developers should be required to submit semi-annual progress reports on the Supplier Engagement Plan and Statement of Goals. The Supplier Engagement Plan should include (1) previous and best-effort plans to contact domestic Tier 1, 2, and 3 suppliers and receive consultation from manufacturing unions; (2) component specifications and details about the opportunity to the extent available and nonproprietary; (3) commitment to freedom of association without employer involvement; and (4) commitment to require all suppliers, contractors, and subcontractors, on all tiers, to utilize a supplier code of conduct that includes: health and safety committees; equitable access to jobs and inclusion of disadvantaged workers; competitive wages; agreement that the employer will remain neutral in any union organizing effort; and where applicable, training programs that are industry-recognized (by both employers and labor unions), have stackable credentials, and are portable and accredited.

5). Bidding Credits in a Multiple Factor Auction

The BlueGreen Alliance supports BOEM's proposal to use a multiple-factor auction format with a multiple-factor bidding system that is a combination of a monetary bid and non-monetary factors consisting of bidders' financial commitment to invest in a U.S. domestic supply chain, workforce training programs, and community benefit agreements. To be eligible for bidding credits, we believe that bidders should have investment strategies that are transparent, inclusive, and equitable. To ensure these investments contribute meaningfully to the goals of OCSLA and a high-road, responsibly—developed U.S. offshore wind industry we offer the following modifications and additions. We also support utilizing bidding credits for other investments such as environmental justice, fisheries, and environmental protection, but the focus of this letter is workforce development and supply chain.

Increasing total bidding credits available and establishing discrete investments for each investment:

To ensure bidding credits result in investments that meaningfully contribute to a domestic supply chain and that workforce training programs are established for all necessary segments of this industry in the United States, we recommend the following designation of bidding credits:

- Up to 20% of the total cash bid for investments in supply chain facilities;
- Up to 30% for workforce training programs, designated as:
    - Up to 10% of the total cash bid for manufacturing workforce training programs;
    - Up to 10% of the total cash bid for construction workforce training programs; and
    - Up to 10% of the total cash bid for operation and maintenance workforce training programs.

Currently, BOEM requires that bidders interested in obtaining the bidding credit submit their conceptual strategy with their Bidder Financial Form, describing the verifiable actions that the lessee would take and that would allow BOEM to confirm compliance when the lessee submits its documentation. We urge BOEM to make these strategies publicly available within 48 hours of the verification of auction results. We recommend that BOEM require strategies to include the following information for each investment area:

Supply chain facilities

Consistent with the stipulation recommended above, we recommend that supply chain investment strategies include requirements for suppliers to utilize a supplier code of conduct that consists of commitments to freedom of association without employer involvement; health and safety committees; workplaces free from harassment and discrimination; equitable access to jobs and inclusion of disadvantaged workers; family sustaining wages; and, where applicable, training programs that are industry-recognized (by both employers and labor unions), have stackable credentials, are portable, and accredited. Lessees should also require Tier 1 suppliers they invest in using the bidding credit to negotiate a community benefit agreement with any host communities of manufacturing facilities, including access to jobs. Lessees should also require all tiers of suppliers they invest in using the credit to document the quantity and quality of jobs to be created (i.e., pay benefits, classification as employees, permanent jobs, predictable schedules, etc.).[22]

Manufacturing workforce training

Bidders' strategies for investing in manufacturing workforce training programs should include requirements for programs receiving funds from the credits to prioritize training of disadvantaged and displaced workers and that provide wrap-around support services to support their enrollment. This should include workers dislocated from fossil-fuel jobs, workers of color, women, formerly incarcerated workers, workers who live in environmental justice communities, workers with disabilities, and veterans. Strategies should also include commitments to require programs to have a memorandum of understanding (MOU) with union and community partners that include recruitment and retention strategies, as well as an MOU with Tier 1, 2, and 3 suppliers that necessitates interviews or internships upon completion of the program.

Construction workforce training

Bidders' strategies for investing in construction workforce training programs should prioritize registered union apprenticeships and pre-apprenticeship programs. Strategies should also include investing in training programs that prioritize training of dislocated and disadvantaged workers and that provide wrap-around service to support their enrollment. This should include workers dislocated from fossil-fuel jobs, workers of color, women, formerly incarcerated workers, workers who live in environmental justice

communities, workers with disabilities, and veterans. Strategies should also include requirements for programs to (1) enter into an agreement with employers including commitments to hire and strategies to retain program graduates; (2) pursue targeted hiring of disadvantaged, underrepresented, and dislocated workers; and (3) demonstrate career advancement pathways, family sustaining wages, and worker safety.

Operations and maintenance workforce training

Bidders' strategies for investing in operations and maintenance training program should prioritize programs that are industry-recognized (by both employers and labor unions), have stackable credentials, are portable, are accredited, or are registered Department of Labor certified- training programs or labor-management training programs actively engaged in representing dislocated workers and transitioning employees from non-renewable generation facilities or training programs partnering with such labor organizations. Strategies should also include requirements for programs to enter into an MOU with such programs that contains, but is not limited to, safety and training standards, disaster response measures, guaranteed hours, staffing levels, pay rate protection and retraining programs. Programs invested in should also require agreements to hire graduates of the training program and prioritize hiring of transitioning workers who have lost their employment or will be losing their employment in the non-renewable energy generation sector.

6). OCSLA and Presidential Executive Orders

The above recommendations are in alignment with the goals of OCSLA, recent executive orders, and longstanding practices. In achieving the requirements of 8(p)(4) of the OCSLA, DOI's Principal Deputy Solicitor recently concluded that DOI has great discretion of interpretation and must strike a rational balance. The BlueGreen Alliance agrees that § 8(p)(4) of the OCSLA grants DOI a "broad statutory mandate," reserving for the secretary discretion as to the manner in which to achieve the requirements enumerated therein.[23]

In addition to the authority granted by Congress, the president also has authority to direct requirements on leases of the OCS and notable precedent exists for the president to do so. Current BOEM leases of the OCS include lease terms mandated by presidential executive order, specifically Executive Order 11246, which prohibits employment discrimination and establishes affirmative action requirements for nonexempt federal contractors and subcontractors.[24] Article II, § 1 of the United States Constitution provides that "executive power shall be vested in" the president. Such power gives the president the right—in the absence of an express congressional declaration to the contrary—to control the terms upon which public lands or property may be sold, leased, or used by private individuals or entities.[25] Additionally, the president has been delegated "broad-ranging authority" over governmental procurement under various laws including, for instance, the Federal Property and Administrative Services Act, 40 U.S.C. 101 et seq. which authorizes the president to "prescribe such policies and directives . . . as he shall deem necessary" for the promotion of an economical and efficient system for procurement and supply."[26]

A presidential executive order can direct the terms of leases entered into under the OCSLA. In fact, in Crown Central Petroleum Corp. v. Kleepe, 424 F.Supp. 744 (1976), a U.S. federal court affirmed that a lessee of a lease agreement entered into under the authority of the OCSLA is a government contractor under the terms of E.O. 11246 and therefore subject to its directives. This proposition, that leases of public lands by the federal government are "contracts" and lessees are "contractors" has repeatedly been affirmed. [27]

Recent executive orders commit to revitalizing U.S. supply chains and creating well-paying union jobs.

Specifically, EO 14008 § 204. states: "It is the policy of my Administration to lead the Nation's effort to combat the climate crisis by example—specifically, by aligning the management of Federal procurement and real property, public lands and waters, and financial programs to support robust climate action. By providing an immediate, clear, and stable source of product demand, increased transparency and data, and robust standards for the market, my Administration will help to catalyze private sector investment into, and accelerate the advancement of America's industrial capacity to supply, domestic clean energy, buildings, vehicles, and other necessary products and materials." In § 206, President Biden further directed all agencies to "adhere to the requirements of the Made in America Laws in making clean energy, energy efficiency, and clean energy procurement decisions" consistent with Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers (Jan. 25, 2021).

Lease and plan terms, conditions, and stipulations that require the use of domestically produced materials would be the most "immediate, clear, and stable source of product demand" that could be deployed to "catalyze private sector investment into, and accelerate the advancement of America's industrial capacity to supply, domestic, clean energy" and the "necessary products and materials."

Further, the January 27, 2021 Executive Order 14008 "Tackling the Climate Crisis at Home and Abroad" includes the goal of doubling offshore wind by 2030 while creating well-paying union jobs and economic growth; delivering environmental justice; an equitable, clean energy future; and ensuring robust protection for our lands, waters, and biodiversity.

7). Requirements of the Outer Continental Shelf Lands Act

Stipulating the use of PLAs and domestic content paired with bidding credits that invest in offshore wind manufacturing facilities and training programs contribute to several requirements of the OCSLA: coordination with relevant federal agencies, protection of national security interests of the United States, worker safety, ensuring a fair return to the United States for any lease, and protection of the environment.

Coordination with relevant Federal agencies

In his Executive Order on Tackling the Climate Crisis at Home and Abroad, President Biden called for a whole of government approach to the climate crisis that will "create well-paying union jobs to build a modern and sustainable infrastructure."[28] The executive order further emphasized that "[t]his Nation needs millions of construction, manufacturing, engineering, and skilled-trades workers to build a new American infrastructure and clean energy economy." Earlier this year, the White House announced in its recent offshore wind fact sheet that it would take coordinated steps to support rapid offshore wind deployment in a way that would invest, "in American infrastructure to strengthen the domestic supply chain."[29]

All of these statements make clear that it is the policy of the United States to ensure that all agencies should take all possible actions to develop clean energy technologies and combat climate change while also strengthening domestic supply chains. Given the whole-of-government approach, the inclusion of a domestic content preference as a lease stipulation supports the goal of increased coordination with relevant agencies as directed by OCSLA.

Without strong action to support use of domestic content in offshore wind developments, the United States may miss out on the exact kind of manufacturing jobs and supply chain growth the administration is actively pursuing. In 2013, "no domestic manufacturing facilities [were] currently serving the offshore wind market."[30] And the major parts and components of the United States' first offshore wind farm at Block Island—with the exception of the foundation—were manufactured outside the United States.[31]

Fair Return to the United States

Under OCSLA, BOEM must consider how any lease will result in a fair return for the United States. The U.S. Legal Dictionary defines fair return on investment as "reasonable return on the investment of a public utility, determinable only by the exercise of sound judgment and common sense, being a matter of fair approximation, not capable of exact mathematical demonstration."[32] Requiring use of domestic content can help secure fair return to the United States for any lease associated with wind energy development offshore California by maximizing the positive economic impacts of offshore wind development.

Securing a domestic offshore wind supply chain is also essential for ensuring that offshore wind projects can be deployed effectively and on time. The March 2022 offshore wind energy supply chain report by the National Renewable Energy Laboratory (NREL) states that supply chain constraints caused by global bottlenecks are one of the greatest risks for achieving the NOWT.[33] The modeling in the report also shows that average and maximum job creation utilizing 25% domestic content versus 100% domestic content in offshore wind projects results in a difference of approximately 30,000-40,000 jobs from 2023-2030.[34]

A failure to develop a domestic supply chain for offshore wind components would mean fewer jobs and less investment, and thus a lesser return to the United States for offshore wind leases. Across renewables, even this modest increase in manufacturing produces an additional 45,000 good manufacturing jobs per year and an additional $5 billion in wages through the 2020s, as the United States continues greening its electricity grid.[35] These increased benefits are also not likely to come at additional cost. Domestic content requirements are unlikely to influence wind power capital costs.[36] In the rare occurrence that domestic content requirements would increase project costs or that unavailability of any component would slow development, waivers can be issued. Consistent with application of Buy America policy in other sectors, waivers are also issued for domestic content requirements if domestically manufactured materials or manufactured goods are not available in the United States, would result in unreasonable price increases for the project, or the waiver issued is in the public interest.

Methods for achieving a fair return to the United States also have significant equity implications. PLAs can ensure all workers benefit from well-paying jobs by including targeted hire provisions to provide opportunities for workers of color, women, veterans, formerly incarcerated individuals, indigenous people, economically disadvantaged communities, communities heavily impacted by climate change or climate change policies, and many others. These communities may be targeted through contracting requirements, hiring requirements, or the use or establishment of pre-apprenticeship programs. Ideally, these provisions establish long-lasting pipelines for members of disadvantaged communities to access good jobs and careers in the clean economy.

Decline in union density is cited as a reason for growing economic inequality, growing wage gaps for women and workers of color, and declining voice in our democracy for workers in the United States. In particular, the decline in U.S. manufacturing has been devastating to the middle-class, especially for Black and Hispanic workers and other workers of color who disproportionately do not hold college degrees and whom experience discrimination limiting access to better-paying jobs.[37] Manufacturing wages are substantially larger for median-wage, non-college-educated employees, with Black workers in manufacturing earning 17.9% more than in non-manufacturing industries; Hispanic workers earning 17.8% more, Asian American Pacific Islander (AAPI) earning 14.3% more; and white workers earning 29% more.[38]

According to data recently published by the American Iron and Steel Institute, "The iron and steel industry directly employs 386,753 workers who earn $33.55 billion in wages and salaries annually, an average of $86,736 per year, while generating $206.65 billion in output."[39] A 2017 economic analysis found that the industry, both directly and indirectly—through suppliers and services providers—was "responsible for

1.98 million jobs across the nation, paying a total of $131.26 billion in wages and salaries annually, while generating $522.59 billion in industry output and $55.86 billion in federal, state, and local taxes."[40]

PLAs can also help achieve a fair return to the United States from offshore wind development because they often reduce project cost for developers, save public funds in the long run, and result in increased economic benefits for the local economy.[41] PLAs use a skilled labor workforce and often avoid labor disputes which allows for a project to move forward with greater efficiency.[42] PLAs also see fewer cost overruns thanks, at least in large part, to the stabilizing effects of PLAs.[43] Workers are also benefited by utilizing PLAs, even nonunion workers, because they ensure that wages and benefits are defined and protected at local standards.

All of this makes clear that stipulating PLAs and the use of domestic content while making appropriate investments in manufacturing facilities and training programs will result in the maximum return to the U.S. Government, consistent with BOEM's statutory obligations.

Worker Safety

Workforce training programs are paramount for workers' safety in both the offshore and onshore construction of offshore wind farms, which are massive infrastructure projects.

In addition, PLAs often lead to safer working conditions as a result of a more skilled workforce. Data suggests that the construction industry is volatile, resulting in a constant loss of human capital. Additionally, accidents, including death, are more common in states with low-road contractors.[44] PLAs and high-road labor standards can mitigate construction industry volatility and increase site safety. Reports indicate that PLAs decrease the significant gap between expected and realized energy savings in various energy efficiency measures.[45]

Utilizing supplier codes of conduct can also increase safety as they are created for the purpose of ensuring that a company's suppliers adhere to high standards for safe working conditions, fair and respectful treatment of employees, and ethical practices.[46] The best outcomes tend to be when companies have a code of conduct in place and are represented by a union, research suggests. Organizational Science journal found evidence that suppliers with worker's unions are more likely to be compliant with supplier codes of conduct.[47] And, the Harvard Business Review found that following an audit, unionized suppliers improved working conditions more than nonunionized suppliers.[48]

Overall, union workers tend to have more safety protections. According to a 2020 Economic Policy Institute report, *Why Unions are good for workers–especially in a crisis like COVID-19*, union workers were able to negotiate additional health and safety measures, paid sick leave, and job preservation during the pandemic.[49] They also reported that workers without unions are more likely to be retaliated against or fired for advocating for health and safety protections or wage increase.[50]

This supports our recommendation that union neutrality should be stipulated in a Supplier Engagement Plan as well as bidding credit investments in supply chain facilities. The Biden administration has made efforts to support union organizing and signaled support for union neutrality. The National Labor Relations Board General Counsel Jennifer Ann Abruzzo has asked the board to prohibit employers from requiring employees on paid time to hear its point of view on unions.[51] Abruzzo also issued in a recent brief, that the board should reinstate its decision in *Joy Silk Mills*, which was abandoned in 1971, which allows the board to order an employer to bargain with a union if the union demanded to bargain and stated that the majority of employees supported the union unless the employer had good faith believe that the majority of employees did not support the union.[52]

As President Biden said in his September 8, 2021 remarks:

> "Government should never be a barrier to workers organizing. It's government's job to remove those barriers. But it's up to workers to make the choice whether to organize or not, whether to form a union or not. And we need to help them understand why that can be the right choice for them."[53]

Ensuring that employers remain neutral in workers organizing efforts throughout the offshore wind supply chain is related to several of the executive orders referenced in these comments and a key tenant for deploying a high road industry.

National Security

Under OCSLA, BOEM must consider the protection of national security interests of the United States when establishing renewable energy lease areas in federal waters. Policies that support domestic manufacturers and workers through procurement preferences ensure that the United States doesn't have to rely on potentially hostile trading partners to supply our energy infrastructure construction needs. In the rebuilding process following Superstorm Sandy which devastated the Mid-Atlantic region nearly a decade ago, Former Homeland Security Secretary Janet Napolitano pointed to the loss of manufacturing capabilities as reason for delay:

> "I'll give you a good example: transformers. You know, utilities use these big transformers to supply power. They are all made overseas. We have lost any domestic production whatsoever. And they're big and they're really expensive and they take a long time to move…After Sandy, we needed transformers and that whole process, I think, fed into some of the delay in getting the lights turned back on. That's just one example that we run into…"[54]

A summary report jointly-commissioned by DOE and the North American Electric Reliability Corporation (NERC), assessing risks to the U.S. electricity generation and distribution infrastructure observed that the "bulk power system is dependent on long supply chains, often with non-domestic sources and links" and determined that the "increased reliance on foreign manufacturers, with critical components and essential spare parts manufactured abroad (e.g. HV transformers)" means the "supply chain itself represents an important potential vulnerability."[55] The report recommends that "efforts should be considered to bring more of the supply chain and manufacturing base for these critical assets back to North America."[56]

In his executive order on supply chains, President Biden stated that "[t]he United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity and national security."[57] The Administration specifically cited supply chain risks that "reduce critical manufacturing capacity and the availability and integrity of critical goods, products, and services."[58] As part of this effort to protect economic prosperity and national security, the administration directed the Secretary of Energy to "submit a report on supply chains for the energy sector industrial base."[59] Further, in his executive order on climate change, President Biden directed agencies to "seek to increase the Federal Government's resilience against supply chain disruptions… [because] such disruptions put the Nation's manufacturing sector at risk, as well as consumer access to critical goods and services."

According to analysis from Brookings, having onshore suppliers is a "key tenant" of supply chain resilience.[60] This will be particularly important in sectors, like offshore wind, which are reliant on foreign suppliers. Currently only about a dozen commitments are in place to establish manufacturing facilities for offshore wind components in the United States, meaning that significant portions of the investment to build offshore wind projects could flow out of the economy to purchase technology manufactured abroad, rather than supporting the growth of manufacturing and jobs domestically. Imported parts and materials may also raise costs, delay installation, and complicate ongoing maintenance and repair.

High-volume domestic manufacturing, which brings down the cost, happens when manufacturers see consistent demand. Strong, long-term policy that drives rapid deployment and provides certainty in a U.S. offshore wind industry is necessary, coupled with policies to require utilization of domestically-manufactured material and direct investment in these facilities and the training of workers who will operate them.

Protection of the environment

Deploying 30GW of offshore wind will require procuring substantial amounts of energy-intensive products like steel and cement. Requiring use of domestic content can help reduce the overall impact on the environment from offshore wind projects because U.S. energy intensive manufacturers are relatively clean compared to competitors. For example, "[s]teel exporters to the U.S. emit 50-100+% more CO2 emissions per ton than U.S. producers on average."[61]

Use of domestic content can also reduce shipping distance, and thus emissions resulting from long-distance maritime transportation. The International Maritime Organization (IMO) estimates that maritime shipping generated 1 billion tons of greenhouse gasses per year from 2007-2012. Another study estimates that maritime shipping emissions are forecasted to rise between 35% and 210% by 2050. [62]

Conclusion

When done right, offshore wind power will combat impacts of the climate crisis while creating tens of thousands of high-quality, family-sustaining jobs. Lease stipulations requiring that projects be constructed under PLAs and utilizing domestic content are key to achieving a high road industry and contributing to national security, worker safety, environmental protection, and a fair return to the United States. Investments in workforce training programs and domestic manufacturing of content used in the construction of offshore wind projects are also necessary for ensuring that we attain the maximum employment potential of this promising industry, with quality, family-sustaining, union jobs. And, throughout every phase of development, responsible siting and construction methods should be deployed that avoid, minimize, and mitigate adverse impacts to the environment.

Thank you for your work in advancing this promising new industry and your consideration of our recommendations for ensuring it fulfills its transformation potential as a solution to the intersecting environmental and economic crises of our time.

Signed,

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